

# Reporters Without Borders

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### **Submission by Reporters Without Borders, non-governmental organization with special consultative status, concerning freedom of information in Kuwait**

Kuwait is characterized by a degree of media independence, marked by the existence of more than 10 private newspapers. Through the years, these have come to occupy a special place in the region, unhesitatingly addressing topics linked to corruption, terrorism and regional tensions.

In recent years, despite the recommendations of the Human Rights Council following the UPR of Kuwait in 2010, the government has imposed several restrictive measures on freedom of information. That development explains the country's descent by 14 places in the Reporters Without Borders press freedom index of 2014, by contrast with the previous year. Today, the country is ranked [91 of 180 countries](#). The country's [ranking in 2009](#) was 60 of 175. By government policy, two subjects are completely off-limits: the person of Emir and religion.

### **Need for legal reforms to explicitly guarantee freedom of information**

Many provisions, scattered through the country's statutes – constitution, press law, criminal law, the state security law of 1970 – amount to serious threats to freedom of information. They clash with the nation's international commitments, including the International Covenant on Civil and Political Rights of 1966, ratified by Kuwait in May 1996.

Kuwait has not respected Paragraph 25 of the Human Rights Council's *recommendations in 2010* which said: "The State party should revise the Press and Publication Law and related laws in accordance with the Committee's general comment No. 34 (2011) in order to guarantee all persons the full exercise of their freedoms of opinion and expression. The State party should also protect media pluralism, and should consider decriminalizing defamation."

Reporters Without Borders notes that Article 54 of the constitutional stipulates that "The Emir is the Head of State. His person is immune and inviolable." This provision drastically limits freedom of expression and freedom in Kuwait.

Prison terms are included in the 2006 press law now in effect. Article 27 provides for imprisonment of up to one year and/or a fine of 5,000 to 20,000 Kuwaiti dinars (13,000

to 52,000 euros) for journalists and editors-in-chief who commit "blasphemy toward God, the prophet or Islam." The same fine applies to [any journalist who criticizes the Emir](#), Sheikh Sabah Al-Ahmad Al-Sabah. A journalist who publishes an article that challenges the impartiality of judges or is deemed an attacks on the judicial system may be sentenced to a fine of 3,000 to 10,000 dinars (7,800 to 26,000 euros).

If some information providers are prosecuted under the press law, judges mainly invoke the criminal law of 1960. That law provides for up to one year in prison and a heavy fine for a conviction on blasphemy toward "God, the prophets, their wives or Islam" (Article 111). Article 25 provides a term of up to five years in prison for a person who "objects to the rights and authorities of the Emir or faults him."

However, the Emir has refused to enact a bill approved by parliament in April 2012 that provides for capital punishment for "criticism of God, Islam, the prophet and his wives," in speech, writing or in drawings.

The 1970 law on state security can also be used to hamper information freedom. Dissemination of statements that could be interpreted as endangering national security can be punished by up to three years in prison. Consequently, social media users in Kuwait risk prosecution for expressing their opinions in blogs or on Twitter.

A law (introduced by the government in April 2012) was enacted in May 2013 proposing [penalties for anyone who endangers "national unity"](#). Article 19 provides for a prison term of up to seven years and a fine of at least 3,000 Kuwaiti dinars (8,200 euros), for violations of Articles 9 and 18 of the law. The latter provision decrees that the principle of national unity is flouted when media attack communities or incite hatred (Article 9), when they attack beliefs and religion (Articles 10 and 11), or when media do not respect individuals' private lives (Article 12). This bill would impose even greater restrictions on freedom of expression and assembly. And the legislation would leave officials free to interpret it broadly, a power that would enable use of the law to stifle peaceful criticism of government policies.

In the spring of 2013, a [bill that threatened to stiffen penalties](#) against journalists was abandoned. The draft law provided for fines up to 300,000 dinars (1 million U.S. dollars) for "criticism of the Emir or the crown prince" or for misrepresentation of statements by them. Sentences of up to 10 years in prison could be meted out for "insults to God, to the Prophets of Islam, or to the companions or wives of the Prophet Mohammed."

### ***Convictions of news providers on the increase, with Emir, Islam and national unity leading list of taboo topics***

Since the Arab Spring that shook the countries of the region, the Kuwaiti government has been using all means at its disposal to control media and stifle dissident voices. No criticism of government leaders, or even of the constitution, is tolerated.

Blogger **Nasser Abul** was arrested on 10 June 2011 for having criticised the royal families of Saudi Arabia and Bahrein. A charge of criticism of Islam was added to the case against him. According to the attorney general, the comments threatened to harm

relations between Kuwait and the two other governments in question. After a series of postponements, a judge sentenced the blogger in September 2011 to three months of imprisonment at hard labour.

On 9 April 2012, writer **Mohamed Al-Melify** was [sentenced to seven years](#) in prison and a fine of 18,000 dollars on a conviction of spreading false statements about divisions between the country's communities and of insulting a Shiite religious leader.

And in a case against blogger **Ourance Rashidi**, the Court of Cassation upheld on 4 February 2013 a sentence against of 10 years in prison at hard labor and an exorbitant fine of 1 million dinars (2.6 million euros). Rashidi was [convicted](#) of having criticized the emir in videos posted to YouTube, as well as having spread "false information."

Blogger **Badr Al-Rashidi** was [sentenced on appeal](#) on 20 March 2013 to five years imprisonment at forced labor on a conviction of spreading false information and harming the emirate's reputation. Sentenced by a lower court to two years in prison, he has been behind bars since 14 June 2013. Al-Rashidi has declared his innocence from the beginning, claiming that he did not write the incriminating tweets in question. Posts to his Twitter feed have appeared following his arrest, proving that it has been hacked and that someone else is using it.

On 10 June 2013, **Huda Al-Ajmi**, a 37-year-old teacher, was sentenced to 11 years in prison for [having posted on Twitter](#) comments deemed insulting to the emir and calling for overthrow of the government. The sentence is the longest one imposed so far in Kuwait for online content.

**Sara Al-Drees**, a 26-year-old teacher, was [sentenced on appeal](#) on 21 July 2013 to 20 months in prison for four tweets deemed insulting to Sheikh Al-Sabah. The same sentence had been handed down on 29 May 2013 following her trial in a lower court.

Badr Al-Rashidi and Ourance Al-Rashidi were [pardoned in July 2013](#), and freed several days later. Huda Al-Ajmi and Sara Al-Drees were also freed. Sheikh Al-Sabah seized the opportunity provided by the end of Ramadan, a time associated with mercy, for announcing in a speech on 31 July 2013 that "on the occasion of the last 10 days of the month of Ramadan, I have the pleasure of granting my pardon to all those who have been imprisoned for insulting the emir."

The court of appeals upheld on 28 October 2013 a 10-year sentence of imprisonment at hard labour imposed on **Hamad Al-Naqi**, a member of the country's Shiite Muslim minority, for [posting tweets](#) criticizing leaders of Saudi Arabia and Bahrain as well as messages deemed "insulting" to Islam.

On 22 May 2014, the court of appeals [upheld](#) a lower court sentence of two years at hard labour against **Ayyad Al-Harbi**. The opposition activist runs the news site *Sabr*. He was convicted for [tweets deemed insulting](#) toward the emir.

## **Government targets media**

The information minister published on 5 June 2014 a decree [suspending](#) for four days the broadcast of *Al-Watan TV* and *Al-Yaoum TV* news programs. Also suspended, for five days, were newspapers owned by the two media groups in question, *Al-Watan* and *Alam Al-Yaoum*. The offences? The media were accused of having defied a prohibition imposed two months earlier on publishing any information concerning a possible coup d'état in Kuwait.

The attorney general had already, On 20 April 2014, ordered a two-week publication suspension against *Al-Watan* and *Alam Al-Yaoum* on the same grounds. That black-out was justified by a claim that publication of the information could hamper an investigation of the alleged coup plot. *"The prosecutor's ban on media coverage of this case is a grave violation of freedom of information"* Reporters Without Borders said at the time. *"The absurd and iniquitous suspension of those two news outlets again shows that the authorities are bent on controlling the media and, in this case, suppressing coverage of a sensitive political investigation."*

In March 2012, the *Al-Watan* website was blocked in Kuwaiti territory. Instead of its normal content, the site displayed this message: "This site has been blocked by the Communications Minister under Article VII of ministerial resolution no. 103 of 2000." The site administrators had not been informed of the blocking action and no justification was provided to them.

In addition, journalists **Rima Al-Baghdady** and **Ahmed El-Enezi** of *Al-Youm TV*, were charged in April 2013 of having harmed the honour and authority of the emir, and of having insulted the emirate's traditional values, by having [read an opposition communiqué](#) during the channel's 9 October 2012 news programme. They were [acquitted](#) in June 2013.

*Scope TV*, has also been targeted for official action for [allegedly favouring sectarianism and erosion of national unity](#). On 26 April 2012, the channel was sentenced to pay 500,000 Kuwaiti dinars (1,360,000 euros) in damages to former deputy information minister Sheikh Faisal Al-Malek Al-Sabah. According to the court, station director and former parliamentarian **Tallal Al-Said** had broadcast in October 2011 a programme held to be "offensive" toward the royal family. Several days before the court action, the station's headquarters had been invaded by about 50 members of the Al-Awazem tribe, the country's leading tribe, who destroyed part of the building's facade and vandalized offices. The invaders acted in response to reports that comments deemed insulting toward them had been made in a broadcast presented by Fayez Baty. During the broadcast, Shi'ite parliamentarian Hussein Al-Qalaf was reported to have criticized Sheikh Falah Bin Jamir, leader of the Al-Awazem. Following the interview, the Kuwaiti government decided to initiate legal proceedings against the station. The following day, the station's management took the station off the air to protest the attack.

**Abdul Hussein Al-Sultan**, editor-in-chief of *Al-Dar*, a daily newspaper, was sentenced on 12 March 2012 to six months in prison because he had defended the Shi'ite minority. The editor avoided the prison sentence by paying a 1,000-dinar (2,700 euros) fine. The sentence included a three-month publication suspension for the newspaper. Al-Sultan's conviction followed comments in two articles that were deemed dangerous to national

unity and alleged to have incited a violation of public order and to have promoted hatred toward certain religious groups and sectors of society.

**Recommendations by Reporters Without Borders:**

RWB cites recommendations previously formulated by the Human Rights Council following the UPR of Kuwait in 2010, especially concerning information freedom.

RWB calls on the government to undertake a comprehensive reform of media laws including:

- Elimination, or at least decriminalization, of blasphemy and insulting the emir;
- A requirement that press law supersedes general law where press violations are concerned.

The principle of supremacy of a specific legal code over general law must be affirmed so that no criminal law provision can be applied in cases of press law violations. At the same time, the court system must be reformed in order to ensure the genuine independence of judges.

- Decriminalization of press law violations.
- The setting of reasonable and proportionate fines for press law violations.

The government is also urgently called upon to immediately release all persons presently imprisoned for having met their information-providing responsibilities and for expressing personal opinions.